IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2386 OF 1992

M/s.Technolec. ...Petitioner.

Vs.

The Development Commissioner (Industries),
(Appellate Authority) & Ors. ...Respondents.

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Mr. Tanaji Mhatugade h/f Mr. A.V. Anturkar for the Petitioner.
Mr. C. R. Sonawane, AGP for Respondent No.1 to 3.

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CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 6, 2005.

P.C.:

This petition takes exception to an order dated 5th February 1992, passed by the Development Commissioner (Industries), acting as Appellate Authority under the House-hold Electrical Appliances (Quality Control) Order, 1981. The Petitioners made an application for the grant of a manufacturers' certificate for a product which they styled as a 'Hot Spring Geyser'. The application was made under the provisions of the aforesaid Order which has been made by the Central Government under Section 3 of the Essential Commodities Act, 1955. Para 3 of the

Order inter alia prohibits the manufacture and sale of household electrical appliances which do not conform to the specified standard. A specified standard is defined to mean, in relation to household electrical appliances, the standard established and published by the Indian Standards Institute. The Superintending Engineer rejected the application on the ground that the product of the Petitioner does not conform to the prescribed standard. The Petitioner carried the matter in appeal and by the impugned order, the Appellate Authority dismissed the appeal.

2. In our view, it is not necessary for us to go into the merits of the issue which arose before the Appellate Authority since the petition can be disposed of on the short grievance of the Petitioner that the Appellate Authority proceeded to dispose of the appeal without furnishing to the Petitioner, an opportunity of being heard. We are of the view, that having regard to the governing provisions of law and to the effect of the action which is questioned by the Petitioner, it is in the fitness of things that the Appellate Authority is directed to decide the issue afresh, after furnishing to the Petitioner

an opportunity of being heard. We, therefore, quash and set aside the impugned order dated 5th February 1992 in order to facilitate a fresh decision by the Appellate Authority in accordance with law. The Appellate Authority shall do so after furnishing the Petitioner an opportunity of being heard. We, however, clarify that since we have disposed of the Petition only on the ground of a failure of compliance with the principles of natural justice, we have not had any occasion to determine the merits of the dispute which it is left open to the Appellate Authority to decide. The petition shall stand disposed of in these terms. In the circumstances of the case, there shall be no order as to costs.

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